

REMARKS

Claims 1-27 are pending in this application, with Claims 1, 12 and 21 being independent. Claims 12-26 have been withdrawn from consideration in view of a restriction requirement made final in the Office Action mailed January 6, 2005. New claim 27 has been added.

Claim 1 has been amended to further distinguish Applicants' invention from the cited art.

Claims 1-11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 3 and 5-8 of U.S. Patent No. 6,692,503 in view of U.S. 5,676,666 (Oxland et al.). Applicants respectfully traverse this rejection. Applicants submit that the amendments presented herein further distinguish these claims from those in U.S. Patent No. 6,692,503. Accordingly, Applicants request reconsideration and withdrawal of this rejection. Furthermore, if the rejection still stands in view of the foregoing amendments, Applicants request that the rejection be held in abeyance until it is determined that these claims are otherwise allowable. At such time, Applicants will submit a terminal disclaimer if these claims remain rejected solely on this ground.

Claims 1-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. 6,379,364 (Brace et al.) in view of Oxland et al. This rejection is respectfully traversed.

Applicants' invention as set forth in Claim 1 relates to a bone fixation system having a plate with a plurality of openings and a drill guide. One notable feature of the drill guide is an offset portion, which allows a fastener inserted through the passage of the guide member and through a slot of the opening to be spaced a distance from a first end of the slot. By

this amendment, Applicants have further clarified features of this offset portion, distinguishing further independent Claim 1 from the cited art of record.

The Office Action relies on Brace et al. to teach the features of the drill guide assembly. Brace et al. teaches a drill guide assembly with slotted guide members 206 and 208, as shown in Fig. 15. Fig. 13 shows a cross sectional view of a guide member, showing the various contours of the guide member. In particular, the Office Action relies on feature 322 as corresponding to the offset portion recited in Claim 1. However, that feature is not understood to be offset in any fashion, but merely a shoulder of the guide member. Nonetheless, independent Claim 1 has been amended to further clarify features of the offset portion, namely, that a second central axis, defined as extending through a center of the offset portion, is offset from a first central axis, defined as extending through a center of the passage extending through the guide member. Brace et al. does not have an offset portion, and thus, it follows that it does not have an offset portion with a second central axis offset from a first central axis of the passage.

Oxland et al. was relied upon for teaching elongated slots and is, therefore, not understood to teach features of a drill guide to cure the above-noted deficiencies.

Accordingly, it is respectfully submitted that Brace et al. and Oxland et al., whether taken alone, or in combination, fail to teach or suggest Applicants' invention as set forth in independent Claim 1.

Dependent Claims 2-11 are allowable at least by virtue of their dependency on Claim 1, as well as for the additional features each claim recites. New claim 27 recites additional features not taught or suggested by the art of record, and is likewise allowable. Independent consideration of the dependent claims is respectfully requested.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested. In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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